

REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed January 5, 2005. Reconsideration and allowance of the application and presently pending claims 1-4 and 9-27, as amended, are respectfully requested.

1. Present Status of Patent Application

Upon entry of the amendments in this response, claims 1-4 and 9-27 remain pending in the present application. More specifically, claims 5-8 are canceled without prejudice, waiver, or disclaimer and claims 25-27 are added. These amendments are specifically described hereinafter. It is believed that the foregoing amendments and additions add no new matter to the present application.

2. Response to Double Patenting Rejection of Claims 1-24

In the Office Action, claims 1-24 stand rejected under the judicially created doctrine of obviousness-type double patenting over *Bingel* (U.S. Patent 6,771,740).

In order to reduce the number of disputed issues and to facilitate early allowance of the now pending claims in the present application, a Terminal Disclaimer is filed herewith in compliance with 37 C.F.R. §1.321(c) to overcome the double patenting issue. Accordingly, Applicant respectfully requests that the double patenting rejection to pending claims 1-4 and 8-24 be withdrawn.

In filing the Terminal Disclaimer, Applicant relies upon the rulings of the Federal Circuit that the filing of such a Terminal Disclaimer does not act as an admission, acquiescence, or estoppel on the merits of the obviousness issue. "In legal principal, the filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither presumption nor estoppel on the merits of the rejection." *Quad Environmental Tech v. Union Sanitary*, 946 F.2d 870, 874 (Fed. Cir. 1991); and *Ortho Pharmaceutical Corp. v. Smith*, 959 F.2d 936, 941-942 (Fed. Cir. 1992).

3. Response to Rejection of Claims 5-8 Under 35 U.S.C. §102(e) or Under 35 U.S.C. §103(a)

In the Office Action, claims 5-6 and 8 stand rejected under 35 U.S.C. §102(e) as allegedly being unpatentable by *Humphrey* (U.S. Patent 6,449,261). Claim 7 stands rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Humphrey* in view of *Yrjola et al.* (U.S. Patent 5,521,561)

Claims 5-8 are canceled without prejudice, waiver, or disclaimer, and therefore, the rejection to these claims are rendered moot. Applicants take this action merely to reduce the number of disputed issues and to facilitate early allowance and issuance of other claims in the present application. Applicants reserve the right to pursue the subject matter of these canceled claims in a continuing application, if Applicants so choose, and do not intend to dedicate any of the canceled subject matter to the public.

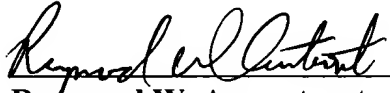
4. Newly Added Claims 25-27

New claims 25-27 are based on subject matter that is explicit and/or inherent within the description of the specification and/or the drawings. Applicants submit that no new matter has been added in the new claims 25-27, and that new claims 25-27 are allowable over the cited prior art. Therefore, Applicants request the Examiner to enter and allow the above new claims.

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 1-4 and 9-27 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,



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